

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

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E-mail: geology@dca.ca.govWebsite: www.geology.ca.gov**MINUTES OF THE MEETING OF THE
BOARD FOR GEOLOGISTS AND GEOPHYSICISTS****July 15, 2005**2535 Capitol Oaks Drive
Sacramento, CA 95833-2926**1. CALL MEETING TO ORDER.**

Craig Copelan, President, called the meeting to order at 9:30 a.m.

2. ROLL CALL TO ESTABLISH QUORUM.Craig Copelan, President
Robert A. Matthews, Ph.D., Vice President
William E. Black
Jeffrey Schmidt

Others in attendance:

Paul Sweeney, Executive Officer
George Dunfield, Enforcement Manager
Gary Duke, Legal Counsel, Department of Consumer Affairs (DCA)
Nancy Linn, Department of Consumer Affairs Office of Examination Resources (OER)
Tony Sawyer, Chair, Technical Advisory Committee (TAC)
Marcia Kiese, Association of Engineering Geologists
Kris Vyverberg, Department of Fish and Game
Dave Parson, RWQCB #1
Rick Rempel, Rempel Consulting Inc.**3. PUBLIC COMMENT ON NON-AGENDA ITEMS.**

There were no comments from the public on non-Agenda items.

4. APPROVAL OF THE MINUTES OF THE MAY 20, 2005 BOARD MEETING.Dr. Matthews moved to approve the minutes from the May 20, 2005 Board meetings.
Mr. Jeffrey Schmidt seconded the motion. The motion passed unanimously.**5. ELECTION OF OFFICERS AND SELECTION OF COMMITTEE MEMBERS.**

Bill Black nominated Craig Copelan as President and Dr. Robert Matthews as Vice-President. Jeffrey Schmidt seconded the motion. The motion passed unanimously.

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the
Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California*

Tom Spittler and Becky Sterbentz were renominated for another three-year term on the Examination Committee. Mark Johnsson and Thomas F. Barry were nominated to serve on the Examination Committee (Bill Black motion, Jeffrey Schmidt second). The motion passed unanimously.

6. ADJOURN BOARD MEETING TO CONVENE A PUBLIC HEARING TO CONSIDER AMENDING REGULATIONS (SECTION 3062, 3062.1, 3063 AND 3063.1, TITLE 16, DIVISION 29, CALIFORNIA CODE OF REGULATIONS CONCERNING CITE AND FINE AUTHORITY AND SECTION 3067, TITLE 16, DIVISION 29 CALIFORNIA CODE OF REGULATIONS CONCERNING COMPLAINT DISCLOSURE PROCEDURES).

The Board Meeting was adjourned. The Public Hearing was opened at 10:02 am. After stating the purpose of the meeting, the Executive Officer asked for any comments on the Cite and Fine authority proposed regulations. There were none. He also indicated that no comments had been received by the Board on the proposed regulations.

Board Member Black moved to adopt the proposed regulations. Board Member Schmidt seconded the motion. The proposed regulations were adopted unanimously by the Board.

The Executive Officer then asked for any comments on the Complaint Disclosure regulations. There were none. Mr. Sweeney also indicated that no comments had been received by the Board on the proposed regulations.

Board Member Black moved to adopt the proposed regulations. Board Member Schmidt seconded the motion. The proposed regulations were adopted unanimously by the Board.

The Public Hearing was closed.

7. RECONVENE BOARD MEETING.

The Board Meeting was reconvened at 10:08 am.

8. PRESENTATION OF THE FINAL REGISTERED GEOPHYSICISTS OCCUPATIONAL ANALYSIS.

Nancy Linn of the Department of Consumer Affairs Office of Examination Resources presented to the Board the final Occupational Analysis validation report for the Registered (Professional) Geophysicists license.

She thanked the Board and its staff for their assistance and the Board publicly thanked Ms. Linn and her staff on a job well done.

Mr. Sweeney stated that this was the first time in the history of the Board, which was created in 1968 by legislation signed by then-Governor Ronald Reagan, that valid occupational analyses have been in place for all four of the Board's licenses.

9. CONSIDERATION OF APPROVAL OF COMITY APPLICATIONS FOR LICENSURE VIA SECTION 7847 OF THE GEOLOGISTS AND GEOPHYSICISTS ACT.

The Board granted Paul Glenn, James Fitzgerald, Bobby Lun Lu and Michael E. Jenkins Professional Geologist licenses through their authority in section 7847 of the Geologists and Geophysicists Act (Motions by Dr. Matthews, seconded by Jeffrey Schmidt). The motions passed unanimously.

10. REPORT ON THE PROGRESS OF THE FOCUS GROUP FOR THE CALIFORNIA-SPECIFIC PORTION OF THE CALIFORNIA PROFESSIONAL GEOLOGIST LICENSING EXAMINATION AND SELECTION OF PARTICIPANTS.

The Board selected the following individuals to serve as Subject Matter Experts (SMEs) for the upcoming California specific examination Focus Group, currently scheduled for October 6-7, 2005:

Thomas E. Berg, PG
John Borkovich, PG
Dr. Roland Brady, Ph.D., PG, CHG (subsequently disqualified due to his changing residency to Oregon)*
Dr. Margaret R. Eggers, Ph.D., PG, CHG
Andrew Frazier, PG
Brian Gwinn, PG (dropped out the evening before the beginning of the Focus Group – not replaced)
K. Dean Mitchell, PG, CHG
William L. Neal, PG
Andrew Zdon, PG, CEG, CHG

(alternates were Thomas E. Neely, PG, CHG; Charles Nestle, PG, CEG and Jason Preece, PG, CEG)

* - Dr. Brady was replaced by Thomas E. Neely, PG, CHG who subsequently dropped out due to unforeseen business commitments – not replaced)

The Department of Consumer Affairs Office of Examination Resources will be coordinating all of the activities, including the Final Report, of the Focus Group.

11. UPDATE ON COMPLAINTS SUBMITTED TO THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL'S REGISTERED ENVIRONMENTAL ASSESSOR PROGRAM ON THE UNLICENSED PRACTICE OF GEOLOGY BY REGISTERED ENVIRONMENTAL ASSESSORS.

Mr. Sweeney reported that there has been no action on the complaints since they were submitted to DTSC in December, 2003. There have been some personnel changes in the REA program since the last Board meeting, specifically, the transfer of Rich Bailey, former Program Manager for the REA program, to CalTrans with the subsequent administration of the program now being handled by his former supervisor, Linda Janssen.

Mr. Sweeney also informed the Board about an issue that had been brought to his attention by Dr. David LeSparance of Signal Geoscience and Dr. Stuart Salot of CTL Environmental Services. Dr. Salot informed Mr. Sweeney during a telephone conversation that he was aware of a dog becoming registered as a Registered Environmental Assessor (REA). Dr. David LeSparance of Signal Geoscience also concurred with this information and was the initial contact point with Mr. Sweeney on the 'dog listing' who requested that I speak to Dr. Salot about this issue. Mr. Sweeney said that he would be sharing this information with Linda Janssen of DTSC.

Mr. Sweeney reviewed prior documentation that had been submitted to the Board for their review for a previously scheduled Board Meeting (July 12, 2002). This information had been tabled from that meeting at the request of two Agency Secretaries. It was being presented again today, three years later, for reference purposes.

12. REPORT ON THE UPCOMING NATIONAL ASSOCIATION OF STATE BOARDS OF GEOLOGY ANNUAL MEETING IN PORTLAND, MAINE.

The Board unanimously voted to have Craig Copelan, Board President, or his designee, attend the annual meeting of the national Association of State Boards of Geology in Portland, Maine. (Dr. Matthews motion, Jeffrey Schmidt seconded).

Mr. Sweeney also presented the 2005 Final Occupational Analysis for the Professional Geologist license that was prepared on ASBOG's behalf by TEST, Inc. (Jack and Steve Warner).

13. LEGISLATIVE COMMITTEE REPORT.

Mr. Sweeney indicated that he attended the Assembly Appropriations Committee on Wednesday, July 13, 2005 in which SB 228 (Figueroa) passed 13-5. (SB 228 is the Board's Sunset extension bill). He then discussed the potential path of the legislation, eventually landing on the Governor's desk. Senior Legal Counsel Gary Duke stated that the administration's current position was to veto SB 228 unless amended.

Senate Bill 246, the Engineer's Title Act Bill, has not made any significant progress. AB 290, which has a watch position for the Board, has had nothing happen to it since May.

For new legislation, Board President Craig Copelan offered up the possibility of pursuing continuing education requirements for licensed professionals. Board Member Dr. Matthews stated that he thought that continuing education was a good idea, in principal, but was curious as to how it would be administered. Mr. Duke described some of the pros and cons of continuing education as a regulatory requirement 'post' licensure. The matter was referred to the TAC for review.

Mr. Black queried about the Board's ability to require field courses at universities. Mr. Sweeney described the Board's previous efforts in this area, and the fact that the Board could try to pursue this legislatively, if the Board wanted to pursue it. Dr. Matthews remarked about his previous experiences with the Board and universities in

this area. It was determined by the Board after some discussion to not pursue this requirement legislatively but to actively perform public outreach with the universities in an effort to promote field courses at the undergraduate level.

14. TECHNICAL ADVISORY COMMITTEE REPORT.

Mr. Sawyer, Chair of the TAC, summarized the meeting of July 1, 2005. The Committee approved two sets of minutes. The Committee was continuing to work on guidelines for use by Board staff on differentiating between professional and technician level work that they have been working on for more than three years. The Committee spent considerable time at the July 1 meeting talking about the future of the Board. They concluded that there wasn't much that they could do. The Committee briefly looked at the materials provided by Mr. Sweeney on the Code of Professional Standards for California's Geologists, Engineers and Architects. No recommendations were made. Mr. Sawyer thanked Kris Vyverberg for her work on forestry and geology issues.

15. EXECUTIVE OFFICER'S REPORT.

Mr. Sweeney distributed copies of the recently released report from the California Budget Project. The portion of the report entitled "Blowing Up Boxes" states that the recently enacted Budget Bill eliminated 9 Boards and Commissions, created a new Corrections and Rehabilitation Agency and a new Department of Technology Services (merging the State's two data centers into one).

Engineering Geologist and Staff Services Analyst positions will be filled this Fall. The Budget Change Proposals authorizing these new positions were part of the signed Budget.

Mr. Sweeney shared a letter with the Board from Catherine Kuhlman, Executive Officer of the Regional Water Quality Control Board, North Coast Region, thanking us for the presentation we delivered at their offices in Santa Rosa in June.

George Dunfield gave the following Enforcement Report:

- 7 New cases opened;
- 2 Warning/Compliance notices issued;
- 3 Cases sent to technical experts;
- 1 Case referred to BPELS;
- 1 Joint case evaluation with a county District Attorney's Office;
- 3 Citation and Fines issued; and
- 9 Cases closed.

Other Enforcement Program Informational Items:

- Working directly with UST Cleanup Fund Manager of the Division of Financial Assistance (DFA)/State Water Resources Control Board to write and formerly place the "PROPER LICENSING FOR ENGINEERING AND GEOLOGY SERVICES" document on the front page of the USTCUF internet homepage, enforcement report pages 4 and 5.

- The Board issued a citation and fine of \$2,500.00 to Terri Jo Barber for unlicensed practice of geology for signing a report making geologic interpretations (Enforcement Action Summary, enforcement report page 6). Terri Jo Barber prepared a report entitled "A Sanitary Survey of Greenwood Creek," dated October 7, 2002, signed and sealed as "Terri Jo Barber, PH# 00H-1535," and submitted to the Elk County Water District. The aforementioned sanitary survey report prepared and certified by Terri Jo Barber, Professional Hydrologist with the American Institute of Hydrology, PH# 00H-1535, demonstrate that she conducted analyses and made interpretations, conclusions and recommendations in the sanitary survey which constituted professional geologic practice in northern California.
- The DCA Communication and Education Division chose to publish an additional "News Release" regarding the Board/Attorney General prosecution of Messrs. Kammer and Pfost for landslide characterization work conducted by them in southern California, enforcement report page 7.
- A response to "Appeal From a Judgment Denying Petition for Writ of Mandate by the Honorable Judge Richard L. Strauss, Judge", dated June 6, 2005 was prepared on June 30, 2005 regarding an individual practicing professional geophysics without a license in southern California; a 60 day procedural deadline extension was also granted to the respondent.
- Implications of professional geologic interpretations by consultants and associated Jurisdictional decision making (e.g., impact on actual and procedural due process rights) informational item.
- Letter entitled "RECENTLY REVOKED LICENSE, Mr. Gary Johnson, PG # 4315" from James Ashby, Principal Engineering Geologist/CEO (and CEG) of Mission Geoscience regarding Mr. Johnson's license revocation, enforcement report pages 8 and 9.
- Continuing to work cooperatively with California Department of Fish and Game (DF&G) technical staff to articulate technical issues for policy resolution by our respective managements.
- Working closely with the Santa Clara County District Attorney's Office to respond and develop to potential Board enforcement issues within that jurisdiction.
- E-mail regarding slope stability legal opinion entitled "Analysis of Slope Stability, Factor of Safety Determinations by Engineering Geologists" enforcement report pages 10 and 11.
- Board enforcement staff has collected \$17,250.00 in enforcement citation fines, assessments, and restitution payments and has secured an additional \$10,526.00 in consumer restitution since the last Board meeting on May 20, 2005 for a total of \$28,026.00.

16. **LEGAL REPORT.**

Gary Duke, Senior Legal Counsel for the Department of Consumer Affairs, brought to the Board's attention that the Department was looking closely at electronic records and the process of discovery. He noted that the Department was looking into a new policy about how to limit the amount of time and form of media that electronic information should be retained.

Mr. Duke wanted to reassure the Board about the Legal Department's role in the Sunset Review process in advising the Department of Consumer Affairs Executive Branch about Board activities (not just the Geology Board).

17. CLOSED SESSION.

The Board closed the Open Meeting and went into closed session.

18. REPORT ON RESULTS OF CLOSED SESSION.

The Board announced that during the closed session they discussed an examination issue and gave Mr. Sweeney his annual performance appraisal.

19. ANNOUNCEMENTS.

The next Board Meeting is scheduled for December 2, 2005 in Sacramento.

20. ADJOURNMENT

The Meeting was adjourned at 1:30 pm.

CRAIG A. COPELAN, P.E., BOARD PRESIDENT

PAUL SWEENEY, BOARD EXECUTIVE OFFICER

Date Approved: December 2, 2005